

U.S. Fish and Wildlife Service Information Quality Guidelines

Guidelines issued by the U.S. Fish and Wildlife Service (FWS) for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by FWS.

PART I INTRODUCTION AND PURPOSE

PART II BACKGROUND, TERMINOLOGY, AND APPLICABILITY

PART III INFORMATION QUALITY STANDARDS

PART IV INFORMATION QUALITY PROCEDURES

PART V LEGAL EFFECT

PART VI DEFINITIONS

PART I INTRODUCTION AND PURPOSE

The mission of the U.S. Fish and Wildlife Service (FWS) is working with others to conserve, protect, and enhance fish, wildlife and plants and their habitats for the continuing benefit of the American people. FWS is issuing these guidelines to establish FWS policy and procedures for reviewing, substantiating, and correcting the quality of information it disseminates, so that persons affected by distribution of information by FWS may seek and obtain, where appropriate, correction of information that they believe may be in error or otherwise not in compliance with the law.

PART II BACKGROUND, TERMINOLOGY, AND APPLICABILITY

In December 2000, Congress required Federal Agencies to publish their own guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information that they disseminate to the public (44 U.S.C. 3502). The amended language is included in section 515(a) of the Treasury and General Government Appropriations Act of 2001 (P.L. 106-554, HR 5658.) The Office of Management and Budget (OMB) published guidelines in the Federal Register on February 22, 2002 (67 FR 8452), directing agencies to address the requirements of the law. The Department of the Interior announced adoption of the OMB guidance. In a May 2002 Federal Register notice, the Department of the Interior instructed bureaus to prepare separate guidelines on how they would apply the Act. This document provides guidance within the FWS and informs the public of FWS policies and procedures to conform with these requirements.

The guidelines supplement existing procedures for commenting on information or correcting information. The guidelines may be revised periodically to best address, ensure, and maximize

information quality.

Factors such as homeland security, threats to public health, statutory or court-ordered deadlines, circumstances beyond our control, or other time constraints may limit or preclude applicability of these guidelines.

II-1 To whom do these guidelines apply?

These guidelines apply to all Service offices that disseminate information to the public.

II-2 When do these guidelines become effective?

These guidelines apply to information disseminated on or after October 1, 2002, regardless of when it was first disseminated. Archived records of information disseminated and subsequently archived are exempt from the Guidelines. Information disseminated prior to October 1, 2002, but not archived and still being used in a decision-making process is not exempt from these guidelines.

II-3 Do these guidelines change requirements of the public?

These guidelines do not impose new requirements or obligations on the public.

II-4 What do these guidelines cover?

These guidelines apply to all information disseminated by the agency to the public, including information initiated or sponsored by the agency, and information from outside parties that is disseminated by the agency in a manner that reasonably suggests that the agency endorses or agrees with the information. For the purpose of these guidelines, "information" includes any communication or representation of knowledge such as facts or data, in any medium or form. "Disseminated to the public" includes publication (electronic or written) to a community or audience. "Sponsored information" is information FWS initiates or sponsors for distribution to the public. As examples: FWS sponsors information disseminated to the public when FWS prepares and distributes information to support or represent the FWS's viewpoint, to formulate or support an FWS regulation, to distribute FWS guidance, or otherwise put forth a bureau decision or position. FWS sponsors information when information prepared or submitted by a third party is distributed by FWS in a manner that reasonably suggests that FWS endorses or agrees with it, or is using it to support the FWS's viewpoint.

II-5 Where are the terms in this guidance further defined?

The terms "quality, utility, objectivity, integrity, information, government information, information dissemination product, dissemination, influential, and reproducibility" are defined in Part VI. Where a different or modified definition of any of these terms is applicable in a specific context, or associated with a specific information category, that definition will be provided in the context to which it applies.

II-6 What information does not fall under these guidelines?

These guidelines apply only to information that FWS sponsors and disseminates to the public. Examples of information that would generally not meet these criteria are:

- Testimony and information presented to Congress as part of legislative or oversight processes, including drafting assistance in connection with proposed or pending legislation,

- that is not simultaneously disseminated to the public;
- Internet hyperlinks to non-FWS sites;
- Opinions (where FWS presentation makes it clear that what is being offered is someone's opinion rather than fact or the views of FWS) are not FWS positions;
- Correspondence to and from an individual and FWS concerning the status of the individual's particular issue, permit, land or case is not considered information disseminated to the public;
- Archival records, including library holdings;
- Information distributed only to government employees or FWS contractors or grantees;
- Communications between Federal agencies, including management, personnel and organizational information, even if the information becomes public at some point;
- FWS responses to requests for agency records pursuant to the Freedom of Information Act (FOIA), the Privacy Act, the Federal Advisory Committee Act (FACA), or other similar laws;
- Solicitations (e.g., program announcements, requests for proposals);
- Press releases, fact sheets, press conferences or similar communications in any medium that announce, support the announcement or give public notice of information FWS has disseminated elsewhere;
- Distributions of information by outside parties unless FWS is using the outside party to disseminate the information on its behalf (and to clarify applicability of the guidelines, FWS will indicate whether distributions are initiated or sponsored by FWS by using disclaimers to explain the status of the information);
- Research by Federal employees and recipients of FWS grants, cooperative agreements, or contracts, where the researcher (and not FWS) decides whether and how to communicate and publish the research, does so in the same manner as his or her academic colleagues, and distributes the research in a manner that indicates that the research does not represent FWS's official position (for example, by including an appropriate disclaimer). Distribution of research in this manner is not subject to these guidelines even if FWS retains ownership or other intellectual property rights because the Federal Government paid for the research;
- Public filings including information submitted by applicants for a permit, license, approval, authorization, grant, or other benefit or permission; information submitted voluntarily as part of public comment during rulemaking;
- Dissemination intended to be limited to subpoenas or information for adjudicative processes, including ongoing criminal or civil action or administrative enforcement action, investigation, or audit;
- Forensic reports issued in connection with ongoing criminal investigations.

II-7 What happens if information is initially not covered by these guidelines, but FWS subsequently disseminates it to the public?

If a particular distribution of information is not covered by these guidelines, the guidelines may still apply to a subsequent distribution of the information in which FWS adopts, endorses or uses the information to formulate or support a regulation, guidance, or other decision or position.

II-8 How does FWS ensure the objectivity of information that is covered by these guidelines?

FWS strives for objectivity of information subject to these guidelines by presenting the information in an accurate, clear, complete, and unbiased manner. FWS is committed to ensure accurate, reliable, and unbiased information. All information disseminated to the public must be approved prior to its dissemination by an authorized representative of the appropriate program and/or Regional Office and must satisfy OMB, Departmental, and FWS guidelines. The approval process will include documentation of the specific information quality standards used in producing the information in a way that substantiates the quality, utility, objectivity, and integrity of the information in a manner that conforms to OMB and Departmental guidelines.

II-9 How does FWS ensure the objectivity and integrity of information that is covered by these guidelines?

Information is subject to security controls designed to ensure that it cannot be compromised or contaminated. These include quality review/quality control procedures, laboratory protocols, study protocols, peer review, and senior management oversight.

II-10 Who is the official responsible for FWS compliance with the guidelines?

The Assistant Director for External Affairs is the responsible official.

PART III INFORMATION QUALITY STANDARDS

To the greatest extent practicable and appropriate, information that FWS disseminates is internally reviewed for quality, including objectivity, utility and integrity, before such information is disseminated. FWS adopts as performance standards, the basic guidance (and definitions) published by OMB on February 22, 2002, and adopted by DOI in a Federal Register notice published May 24, 2002, and the DOI Final Notice.

III-1 How does FWS ensure and maximize the quality of disseminated information?

FWS ensures and maximizes the quality of information by using policies and procedures appropriate to the information product. These include senior management oversight and controls, peer review, communications, product review, surnaming, and error correction. Higher levels of scrutiny are applied to influential scientific, financial or statistical information, which must adhere to a higher standard of quality.

III-2 How does FWS define influential information for these guidelines?

"Influential" means scientific, financial or statistical information with a clear and substantial impact on important public policies or important private sector decisions. For example, FWS will generally consider the following classes of information to be influential: information disseminated in support of the Director's decisions or actions (e.g., rules, substantive notices, policy documents, studies, guidance), and issues that are highly controversial or have cross-agency interest or affect cross-agency policies.

III-3 How does FWS ensure and maximize the quality of "influential" information?

Offices that disseminate information to the public must ensure that influential information, such as analytic results, have a high degree of transparency regarding the source of the information,

assumptions employed, analytical methods applied, and statistical procedures employed. Original and supporting information may not be subject to the high and specific degree of transparency required of analytic results, but FWS will apply relevant policies and procedures to achieve reproducibility to the extent practicable, given ethical, feasibility, and confidentiality constraints. Peer review and public comment periods are key tools for ensuring information quality.

III-4 What is the context in which the information deemed “influential” will be changed?

FWS uses the best available information in making its decisions, from materials from stakeholders, the public, and the scientific community. The most recent or thorough information will be utilized where available. FWS will rely on older information where the conditions of the land and/or resources have not substantially changed over time or where collection of more recent information would not be justified by cost or anticipated yield and value.

III-5 Does FWS ensure and maximize the quality of information from external sources?

FWS will take steps to ensure that the quality and transparency of information provided by external sources, e.g., State and local governments, are sufficient for the intended use. Further consultation, cooperation and communication with States and other governments, the scientific and technical community and other external information providers are needed to address application of these guidelines to external sources.

PART IV INFORMATION QUALITY PROCEDURES

Each FWS office will incorporate the information quality principles outlined in these guidelines into existing review procedures as appropriate. Offices and Regions may develop unique and new procedures, as needed, to provide additional assurance that the information disseminated by or on behalf of their organizations is consistent with these guidelines. All FWS information (publications, reports, data, web pages, etc) must contain a contact name/office, address/email address, phone number.

The FWS website (www.fws.gov) will provide the primary means for affected persons to challenge the quality of disseminated information.

Affected persons may also file a complaint with FWS by mail at:

Correspondence Control Unit
Attention: Information Quality Complaint Processing
U.S. Fish and Wildlife Service
1849 C Street, NW, Mail Stop 3238-MIB
Washington, D.C. 20240

IV-1 Who may request a correction of information?

Any affected person or organization may request a correction of information from FWS pursuant to these guidelines. "Affected persons or organizations" are those who may use, be benefitted by, or be harmed by the disseminated information.

IV-2 What should be included in a request for correction of information?

A request for correction of information must include the following:

- Statement that the Request for Correction of Information is Submitted Under DOI/FWS Information Quality Guidelines.
- Requester Contact Information. The name, mailing address, telephone number, fax number, email address, and organizational affiliation (if any). Organizations submitting a request must identify an individual to serve as a contact.
- Description of Information to Correct. The name of the FWS publication, report, or data product; the date of issuance or other identifying information, such as the URL of the web page, and a detailed description that clearly identifies the specific information contained in that publication, report, or data production for which a correction is being sought.
- Explanation of Noncompliance with OMB, DOI, and/or FWS Information Quality Guidelines.
- Effect of the Alleged Error. Provide an explanation that describes how the alleged error harms or how a correction would benefit the requestor.
- Recommendation and justification for how the information should be corrected. State specifically how the information should be corrected and explain why the corrections should be made.
- Supporting Documentary Evidence. Provide any supporting documentary evidence, such as comparable data or research results on the same topic.

IV-3 Will FWS consider all requests for correction of information?

Yes. FWS will consider all requests submitted pursuant to these guidelines, and consider it for correction unless the request itself is deemed "frivolous," including those made in bad faith or without justification, deemed inconsequential or trivial, and for which a response would be duplicative of existing processes, unnecessary, or unduly burdensome on the Agency.

IV-4 What type of requests would be considered frivolous, duplicative, unnecessary, or unduly burdensome?

FWS may consider a request for correction (or complaint) frivolous if it could have been submitted as a timely comment in the rulemaking or other action but was submitted after the comment period. FWS may consider a request for correction frivolous if it is not from an "affected person" and for these guidelines "affected persons" are persons or organizations who may use, be benefitted by, or be harmed by the disseminated information, including persons who are seeking to address information about themselves as well as persons who use information. FWS may consider each complaint on its merit. Complaints may be dismissed by FWS if it is determined that the complaint is duplicative, burdensome, and disruptive if it was already subject to a separate process for information with a public comment process. For example, FWS rulemaking includes a comprehensive public comment process and imposes a legal obligation on FWS to respond to

comments on all aspects of the action. These procedural safeguards can ensure a thorough response to comments on quality of information. The thorough consideration required by this process generally meets the needs of the request for correction of information process.

In the case of rulemakings and other public comment procedures, where FWS disseminates a study analysis, or other information prior to the final FWS action or information product, requests for correction will be considered prior to the final FWS action or information dissemination in those cases where FWS has determined that an earlier response would not unduly delay issuance of FWS action or information and the complainant has shown a reasonable likelihood of suffering actual harm from the agency's dissemination if the FWS does not resolve the complaint prior to the final FWS action or information product.

If FWS cannot respond to a complaint in the response to comments for the action (for example, because the complaint is submitted too late to be considered along with other comments or because the complaint is not germane to the action), FWS at its discretion will consider whether a separate response to the complaint is appropriate.

IV-5 How will FWS respond to a request for correction of information?

All complaints about Service information quality standards will be tracked by the Service's Correspondence Control Unit (CCU), which will route complaints to the Program or Regional Office responsible for the information. CCU will notify the complainant of receipt of the complaint within 10 business days.

If a request for correction of information is appropriate for consideration, FWS will review the request within 45 business days from receipt of the complaint and issue a decision. FWS will send the results of this decision to the requester with an explanation for the decision. If the request requires more than 45 working days to resolve, the agency will inform the complainant that more time is required and indicate the reason why. If a request is approved, FWS will take corrective action. Corrective measures may include personal contacts via letter, form letters, press releases or postings on the FWS website to correct a widely disseminated error or address a frequently raised request. Corrective measures, where appropriate, will be designed to provide notice to affected persons of any corrections made.

IV-6 Will FWS reconsider its decision on a request for the correction of information?

Requesters of corrective actions who are dissatisfied with an FWS decision regarding their request may appeal the decision. Appeals for reconsideration must be submitted within 15 business days from the decision and should contain the following:

- Indication that the person is seeking an appeal of an FWS decision on a previously submitted request for a correction of information, including the date of the original submission and date of FWS decision;
- Indication of how the individual or organization is an "affected person" under the provisions of these guidelines;
- Name and contact information. Organizations submitting an appeal should identify an individual as a contact;
- Explanation of the disagreement with the FWS decision and, if possible, a recommendation

- of corrective action; and
- A copy of the original request for the correction of information.

IV-7 How does FWS process requests for reconsideration of FWS decisions?

Requests for reconsideration of FWS decisions will be logged and tracked by the FWS's Correspondence Control Unit. Appeals will be forwarded to the appropriate FWS program office or Region that has responsibility for the information in question. The Director of the Fish and Wildlife Service or his designated responsible Assistant or Regional Director will make the final decision on the appeal within 15 business days from receipt in FWS.

IV-8 What is the reporting requirement for oversight of these guidelines?

The Assistant Director for External Affairs will submit reports to the Department of the Interior for consolidated submission to OMB on an annual basis beginning January 1, 2004, and the report will include the number, nature and resolution of complaints received by FWS under the provisions of these guidelines.

PART V LEGAL EFFECT

These guidelines are intended only to improve the internal management of FWS relating to information quality. Nothing in these guidelines is intended to create any right or benefit, substantive or procedural, enforceable by law or equity by a party against the United States, its agencies, its offices, or another person. These guidelines do not provide any right to judicial review.

PART VI DEFINITIONS

VI-1. *Quality* is an encompassing term that includes utility, objectivity, and integrity. Therefore, the guidelines sometimes refer to these four statutory terms collectively as *quality*.

VI-2. *Utility* refers to the usefulness of the information to its intended users, including the public. In assessing the usefulness of information that we disseminate to the public, we need to reconsider the uses of the information not only from our perspective, but also from the perspective of the public. As a result, when transparency of information is relevant for assessing the information's usefulness from the public's perspective, we will take care to address that transparency in our review of the information.

VI-3. *Objectivity* involves two distinct elements: presentations and substance.

(a) *Objectivity* includes whether we disseminate information in an accurate, clear, complete, and unbiased manner. This involves whether the information is presented within a proper context. Sometimes, in disseminating certain types of information to the public, other information must also be disseminated in order to ensure an accurate, clear, complete,

and unbiased presentation. Also, we will identify the sources of the disseminated information (to the extent possible, consistent with confidentiality protections) and include it in a specific financial, or statistical context so that the public can assess for itself whether there may be some reason to question the objectivity of the sources. Where appropriate, we will identify transparent documentation and error sources affecting data quality.

(b) In addition, objectivity involves a focus on ensuring accurate, reliable, and unbiased information. In a scientific, financial, or statistical context, we will analyze the original and supporting data and develop our results using sound statistical and research methods.

(1) If data and analytic results have been subjected to formal, independent, external peer review, we will generally presume that the information is of acceptable objectivity. However, a complainant may rebut this presumption based on a persuasive showing in a particular instance. If we use peer review to help satisfy the objectivity standard, the review process employed must meet the general criteria for competent and credible peer review recommended by OMB's Office of Information and Regulatory Affairs (OIRA) to the President's Management Council (9/20/01) (http://www.whitehouse.gov/omb/inforeg/oira_review-process.html). OIRA recommends "that (a) peer reviewers be selected primarily on the basis of necessary technical expertise, (b) peer reviewers be expected to disclose to agencies prior technical/policy positions they may have taken on the issues at hand, (c) peer reviewers be expected to disclose to agencies their sources of personal and institutional funding (private or public sector), and (d) peer reviews be conducted in an open and rigorous manner."

(2) Since we are responsible for disseminating influential scientific, financial, and statistical information, we will include a high degree of transparency about data and methods to facilitate the reproducibility (the ability to reproduce the results) of such information by qualified third parties. To be

considered influential, information must be based on objective and quantifiable data and constitute a principal basis for substantive policy positions adopted by FWS. It should also be noted that the definition applies to "information" itself, not to decisions that the information may support. Even if a decision or action by FWS is itself very important, a particular piece of information supporting it may or may not be "influential".

Original and supporting data will be subject to commonly accepted scientific, financial, or statistical standards. We will not require that all disseminated data be subjected to a reproducibility requirement. We may identify, in consultation with the relevant scientific and technical communities, those particular types of data that can practically be subjected to a reproducibility requirement, given ethical, feasibility, or confidentiality constraints. It is understood that reproducibility of data is an indication of transparency about research design and methods and thus a replication exercise (i.e. a new experiment, test of sample) that will not be required prior to each release of information.

With regard to analytical results, we will generally require sufficient transparency about data and methods that a qualified member of the public could undertake an independent reanalysis. These transparency standards apply to our analysis of data from a single study as well as to analyses that combine information from multiple studies.

Making the data and methods publicly available will assist us in determining whether analytic results are reproducible. However, the objectivity standard does not override other compelling interests such as privacy, trade secrets, intellectual property, and other confidentiality protections.

In situations where public access to data and methods will not occur due to other compelling interests, we will apply especially rigorous checks to analytical results and documents what checks were undertaken. We will, however, disclose the specific data sources used, and the specific quantitative methods and assumptions we employed. We will define the type of checks, and the level of detail for documentation, given the nature and complexity of the issues. With regard to analysis of risks, human health, safety, and the environment, we will use or adapt the quality principles applied by Congress to risk information used and disseminated under the Safe Drinking Water Amendments of 1996 (42 U.S.C. 300g-1(b)(3)(A) & B)).

VI-4. *Integrity* refers to the security of information - protection of the information from unauthorized access or revision, to ensure that the information is not compromised through corruption or falsification.

VI-5. *Information* means any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms. This definition includes information that an agency disseminates from a web page, but does not include the provision of hyperlinks to information that others disseminate. This definition does not include opinions, where our presentation makes it clear that what is being offered is someone's opinion rather than fact or the agency's views.

VI-6. *Government information* means information created, collected, processed, disseminated, or disposed of by or for the Federal Government.

VI-7. *Information dissemination product* means any books, paper, map, machine-readable material, audiovisual production, or other documentary material, regardless of physical form or characteristic, an agency disseminates to the public. This definition includes any electronic document, CD-ROM, or web page.

VI-8. *Dissemination* means agency initiated or sponsored distribution of information to the public [see 5 CFR 1320.3(d) for definition of "conduct or sponsor"]. Dissemination does not include distribution limited to government employees or agency contractors or grantees; intra- or inter-agency use or sharing of government information; and responses to requests for agency records under the Freedom of Information Act, the Privacy Act, the Federal Advisory Committee Act or other similar law. This definition also does not

include distribution limited to correspondence with individuals or persons, press releases, archival records, public filings, subpoenas or adjudicative processes.

VI-9. *Influential*, when used in the phrase “influential scientific, financial, or statistical information,” means that we can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important private sector decisions. We are authorized to define “influential” in ways appropriate for us, given the nature and multiplicity of issues for which we are responsible.

VI-10. *Reproducible* means that the information is capable of being substantially reproduced, subject to an acceptable degree of imprecision. For information judged to have more (less) important impacts, the degree of imprecision that is tolerated is reduced (increased). If we apply the reproducibility test to specific types of original or supporting data, the associated guidelines will provide relevant definitions of reproducibility (e.g. standards for replication of laboratory data). With respect to analytic results, capable of being substantially reproduced means that independent analysis of the original or supporting data using identical methods would demonstrate whether similar analytic results, subject to an acceptable degree of imprecision or error, could be generated.